INFORMATION BULLETIN

2009-6

October 29, 2009

Measure to further facilitate the payment of rebates as preferred units for cooperatives and other measures

This information bulletin describes the application details of the measure to further facilitate the payment of rebates as preferred units for eligible cooperatives while allowing a deferral of tax on them.

It also provides a detailed description of other measures, including those concerning the limitation of the investment tax credit for manufacturing and processing equipment, the refund of instalment over-payments and the suspension of payment of the refundable tax credit for child assistance during an investigation.

For information regarding the matters dealt with in this information bulletin, contact the Secteur du droit fiscal et de la fiscalité at 418 691-2236.

The French and English versions of this bulletin are available on the ministère des Finances website at: www.finances.gouv.qc.ca

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Finances Québec

Measure to further facilitate the payment of rebates as preferred units for cooperatives and other measures

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1. EASING OF THE DEFINITION OF ELIGIBLE COOPERATIVE FOR THE DEFERRAL OF TAXATION OF CERTAIN REBATES

On February 21, 2002, the government supported Québec cooperatives in their efforts to increase their capitalization, by introducing a mechanism for the deferral of taxation of an eligible rebate received by a member of an eligible cooperative.[1]

Accordingly, briefly, a taxpayer who is a member of an eligible cooperative, during a taxation year of such cooperative, and who receives an eligible rebate consisting of a preferred unit, during a taxation year, may claim a deduction in calculating his taxable income for such taxation year (eligible rebate deduction). The taxpayer may then defer the tax on the value of such preferred unit until the time of its alienation.

An eligible cooperative, for a taxation year, means a cooperative that obtained a certificate issued by the ministre du Développement économique, de l'Innovation et de l'Exportation (MDEIE) according to which it satisfies all the following requirements:[2]

— it is governed by the Cooperatives Act[3] or constituted under the Canada Cooperatives Act[4] and belongs, for such taxation year, to one of the following categories of cooperatives:

  — a work cooperative or a shareholding workers cooperative;

  — a solidarity cooperative that would be a work cooperative were it not for the fact that it has support members;

  — a producers cooperative or a solidarity cooperative that would be a producers cooperative were it not for the fact that it has support members, provided that at least 90% of the goods and services it supplies, including those supplied through a partnership or a subsidiary, are supplied to persons or to partnerships that procure those goods or services for the purpose of earning business income;

  — a producers cooperative the majority of whose members, other than associated or auxiliary members, carry on an agricultural business registered with the ministère de l'Agriculture, des Pêcheries et de l'Alimentation du Québec (MAPAQ) as an agricultural operation, for the purposes of the Regulation respecting the registration of agricultural operations and the payment of property taxes and compensations,[5] such agricultural operation being referred to hereunder as a "recognized agricultural operation";

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1 MINISTÈRE DES FINANCES DU QUÉBEC, *Information Bulletin 2002-2*, February 21, 2002, p. 1.

2 The notion of eligible cooperative for the purposes of the eligible rebate deduction has been covered in the following announcements: MINISTÈRE DES FINANCES DU QUÉBEC, note 1 above; MINISTÈRE DES FINANCES DU QUÉBEC, *Supplement to the Government's Budgetary Policy*, March 19, 2002, Section 1, p. 64; MINISTÈRE DES FINANCES DU QUÉBEC, *2004-2005 Budget – Additional Information on the Budgetary Measures*, March 30, 2004, Section 1, p. 99; MINISTÈRE DES FINANCES DU QUÉBEC, *2005-2006 Budget – Additional Information on the Budgetary Measures*, April 21, 2005, Section 1, p. 112.

3 R.S.Q., c. C-67.2.

4 S.C. 1998, c. 1.

5 R.R.Q., c. M-14, r. 2.2.

- a federation of cooperatives the majority of whose members, other than auxiliary members, are work cooperatives, shareholding workers cooperatives, producers cooperatives or persons (or partnerships) who carry on an agricultural business registered with the MAPAQ as a recognized agricultural operation;

— its central management is in Québec and more than one-half of the wages paid to its employees, during its fiscal year ended prior to such taxation year, were paid to employees who, for the purposes of the regulations enacted under section 771 of the Taxation Act, are employees of an establishment situated in Québec (territoriality of activities condition). In the case of a shareholding workers cooperative, the territoriality condition also applies to the corporation of which the cooperative is a shareholder and that employs its members, taking into account not only the wages paid to the employees of the corporation but also those paid to employees of the legal persons with which it is associated;

— the majority of the assets held by such cooperative, other than a shareholding workers cooperative,[6] or by a federation of cooperatives, as the case may be, including those held by a subsidiary, a partnership of which the cooperative or the federation of cooperatives, as the case may be, is the majority member or by a trust to which the latter transferred property of its estate, at the end of the fiscal year ended before such taxation year, are located in Canada;

— its capitalization rate, at the end of the fiscal year ended before such taxation year, is less than 60%, unless it is a work cooperative or a shareholding workers cooperative or if it obtained an exemption from the MDEIE because of the fact that it is the process of carrying out an expansion or development project (capitalization rate condition);

— it satisfies the provisions of the Cooperatives Act.[7]

❑ Changes to the definition of eligible cooperative

To further facilitate the payment of rebates as preferred units while allowing a deferral of tax thereon, the capitalization rate condition of cooperatives will be withdrawn and the territoriality of activities condition will be eased.[8] More specifically, the territoriality of activities condition will, furthermore, only contain the requirement that the central management of the cooperative and, in the case of a shareholding workers cooperative, of the corporation that employs its members, be carried out in Québec. It will no longer refer to the wages paid by the cooperative or, in the case of a shareholding workers cooperative, by the corporation that employs the members of the cooperative and by the legal persons associated with such corporation.

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6 In the case of a shareholding workers cooperative, most of the assets held by the corporation of which it is a shareholder, at end of the fiscal year ended before such taxation year, are located in Canada.

7 See note 3 above.

8 These terms and conditions relating to these changes will be found in the framework legislation consolidating the non-tax parameters of certain fiscal measures and whose introduction was announced in *Information Bulletin 2007-10*, on page 16.

Accordingly, for the purposes of the eligible rebate deduction, an eligible cooperative, for a taxation year, will mean a cooperative that obtained a certificate from the MDEIE according to which it satisfies the above-mentioned requirements as changed by this information bulletin.

❑ Application date

These changes will apply regarding an eligibility certificate application for a taxation year of a cooperative that ends after the day of publication of this information bulletin.

2. CHANGES TO THE INVESTMENT TAX CREDITS FOR MANUFACTURING AND PROCESSING EQUIPMENT

An investment tax credit for manufacturing and processing equipment was introduced in the March 13, 2008 Budget Speech.[9]

Briefly, an eligible corporation that makes an eligible investment, during a taxation year, can receive an investment tax credit, for such year, of up to 40% of the amount of the eligible investment. The rate of the investment tax credit applicable to a given corporation depends, on the one hand, on where the eligible investment is made and, on the other, on the paid-up capital of such corporation, calculated on a consolidated basis.

The base rate of the investment tax credit is 5%. However, this rate is raised to 20% where the eligible investment is made in an intermediate zone,[10] to 30% where the investment is made in the Bas-Saint-Laurent region and to 40% where the investment is made in a remote zone.[11]

To benefit from the increased rates of 20%, 30% or 40%, a corporation's paid-up capital, calculated on a consolidated basis, must not exceed $250 million. Moreover, where the paid-up capital of the eligible corporation, calculated on a consolidated basis, exceeds $250 million but is less than $500 million, the 20%, 30% and 40% rates are reduced linearly until they reach 5%.

The investment tax credit to which an eligible corporation is entitled, during a taxation year, can be deducted from income tax and tax on capital otherwise payable by such corporation for such taxation year.

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9 MINISTÈRE DES FINANCES DU QUÉBEC, *2008-2009 BUDGET – Additional Information on the Budgetary Measures*, March 13, 2008, Section A, p. A.60.

10 Intermediate zones consist of the territory in the following administrative regions: Saguenay–Lac-Saint-Jean (region 02), Mauricie (region 04), Outaouais (region 07), the Vallée-de-la-Gatineau RCM and the Pontiac RCM, and in Laurentides (region 15), the Antoine-Labelle RCM.

11 Remote zones consist of the territory in the following administrative regions: Abitibi-Témiscamingue (region 08), Côte-Nord (region 09), Nord-du-Québec (region 10) and Gaspésie–Îles-de-la-Madeleine (region 11).

The portion of the investment tax credit relating to a taxation year that cannot be applied against income tax and tax on capital payable by the corporation for such taxation year may be refunded, in whole or in part, or carried over.

For an eligible corporation to benefit fully from the refundability of the investment tax credit for a taxation year, its paid-up capital, applicable for such year and calculated on a consolidated basis, must not exceed $250 million. Moreover, an eligible corporation may receive a partial refund for a taxation year, where paid-up capital applicable for such year, calculated on a consolidated basis, is between $250 million and $500 million. Refundability declines linearly for paid-up capital, so calculated, between $250 million and $500 million. Any non-refundable portion of the tax credit can be carried over.

Essentially, this tax credit was set up to foster eligible investments throughout Québec. In addition, regarding eligible investments made by an eligible corporation whose paid-up capital, calculated on a consolidated basis, is less than $500 million (an SME), the rate of the tax credit is increased where the eligible investment is made in certain regions and the tax credit is refundable, in whole or in part.

Monitoring of this fiscal measure since its introduction has indicated that certain adjustments to its eligibility conditions are needed to better reflect the objectives. Certain corporate arrangements could run counter to the existing fiscal policy by resulting in major investment projects carried out by large enterprises benefiting from the advantageous treatment reserved for SMEs.

Accordingly, changes will be made to the investment tax credit for manufacturing and processing equipment. In this regard, a cumulative limit of $75 million of eligible investments that may qualify for an increased rate, refundability or both of these benefits will be added. Similarly, a presumption relating to associated corporations will be introduced.

❑ Cumulative limit of $75 million

To ensure compliance with the fiscal policy, a cumulative limit of $75 million of eligible investments that may qualify for an increased rate, refundability or both of these benefits will be added to the existing rules.

In this regard, only one maximum of $75 million of eligible investments made by an eligible corporation during a taxation year may qualify for an increased rate, refundability or both of these benefits.

In addition, for a given taxation year of a corporation, the cumulative limit of $75 million must be reduced by the eligible investments made by the corporation during its taxation years ended during the 24-month period preceding the beginning of the given taxation year.

Where, during a given taxation year, a given eligible corporation is associated with one or more other corporations, the cumulative limit of $75 million, for the given eligible corporation, must be reduced by all the eligible investments made by it and by the corporations with which it is associated during their taxation years ended during the 24-month period preceding the beginning of the given taxation year of the eligible corporation.

For the determination of the cumulative limit of an eligible corporation for a given taxation year, only the eligible investments made earlier and that could enable the corporation (or a corporation associated with it) to qualify for an increased rate, refundability or both these benefits, will reduce the cumulative limit.

In other words, for the determination of the cumulative limit of an eligible corporation for a given taxation year, the portion of eligible investments made earlier and that could not enable the corporation (or a corporation associated with it) to qualify for an increased rate, refundability or both these benefits, because they then exceeded the cumulative limit of the corporation concerned or because the paid-up capital of the corporation concerned, calculated on a consolidated basis, was equal to or greater than $500 million, will not reduce the cumulative limit.

However, an eligible investment that could have enabled the corporation concerned to qualify for refundability had the corporation not had income tax or tax on capital allowing it to fully utilize the tax credit, will also reduce the cumulative limit.

Where, during a taxation year, the eligible investments of an eligible corporation partially exceed the corporation's cumulative limit, it may choose the eligible investments regarding which it may qualify for an increased rate, refundability or both these advantages.

For greater clarity, all the other rules that currently apply to the investment tax credit for manufacturing and processing equipment, in particular those based on paid-up capital and relating to the rate of the tax credit and its refundability, remain unchanged.

- **Agreement on the utilization of the cumulative limit**

In addition to the rules applicable to the calculation of the cumulative limit of an eligible corporation where it is associated with one or more other corporations, the cumulative limit thus calculated must be covered by an agreement, within the group of associated corporations, on its utilization by the eligible corporation and, as well, by an adjustment resulting from the agreements that concern the utilization of a cumulative limit by a corporation with which the eligible corporation is associated.

Accordingly, where an eligible corporation is associated with one or more other corporations during a taxation year, it will have to obtain the agreement of the corporations with which it is associated to utilize an amount that is not greater than the excess of its cumulative limit otherwise calculated over the reduction indicated below.

Consequently, the cumulative limit otherwise calculated of an eligible corporation for a given taxation year will have to be reduced by all the amounts covered by an agreement regarding a corporation with which the corporation is associated and in relation to a taxation year of such associated corporation that ends during the given taxation year of the eligible corporation or on the same date.

An eligible corporation will have to enclose with its tax return for a given taxation year the agreement allowing it to utilize an amount, as well as a copy of the agreements allowing such utilization for a corporation with which the corporation is associated in relation to a taxation year of such associated corporation that ends during the given taxation year of the eligible corporation or on the same date.

- **Corporation that is a member of partnership**

Under existing rules, a corporation that is a member of a partnership can receive the investment tax credit regarding its share of the eligible investments made by such partnership.

In such a case, the rules relating to the cumulative limit of $75 million will be applied first within the partnership. In addition, the share of the eligible investments allocated by the partnership to an eligible corporation and that can qualify for an increased rate, refundability or both these benefits will be re-submitted to the rules relating to the cumulative limit of $75 million within the eligible corporation.

- **Property used in the course of a joint venture**

Under existing rules, a corporation may receive the investment tax credit regarding its eligible investments made in the course of a joint venture.

In the case of such investments, the rules relating to the cumulative limit of $75 million will be applied first within the joint venture as if it was a partnership whose fiscal year ends on December 31 of each year. The share of the cumulative limit of each partner of the joint venture for such fiscal year will correspond to the percentage of the eligible investments made by such partner during such fiscal year.[12]

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12 For example, a partner, that has made, during the fiscal year of the joint venture, $90 million of the $300 million of eligible investments made under the joint venture, will be allocated 30% of the joint venture's cumulative limit for such fiscal year. Assuming that the cumulative limit of the joint venture is $75 million for such fiscal year, the share of the limit attributed to such partner regarding such eligible investments made during such fiscal year would be $22.5 million (30% x $75 million).

In addition, if such partner is a corporation whose taxation year ends on June 30 of each year and that only $30 million of its $90 million of eligible investments was made from January 1 to June 30 of such fiscal year, then only one third ($30 million/$90 million) of its share of the $22.5-million limit allocated to it for such fiscal year, i.e. $7.5 million, can be used for such taxation year. The balance of $15 million may be used in its next taxation year ending on June 30 of the following year.

In addition, the eligible investments made by the eligible corporation in the course of a joint venture and that can qualify for an increased rate, refundability or both these benefits will be re-submitted to the rules relating to the cumulative limit of $75 million within the eligible corporation.

❑ Deemed associated corporations

To prevent the rules on associated corporations, for the purposes of the investment tax credit for manufacturing and processing equipment, from being circumvented, where it is reasonable to consider that one of the main reasons for the separate existence of two or more corporations, in a taxation year, is to have an eligible corporation receive such tax credit for such year or to increase its amount for such year, such corporations will be deemed to be associated with each other at the end of the year.

❑ Application date

The cumulative limit of $75 million will apply regarding eligible investments made on or after the day of publication of this information bulletin.

However, the calculation of the cumulative limit will take into account, according to the rules indicated above, the eligible investments made since the introduction of this fiscal measure, i.e. since March 14, 2008.

The presumption relating to associated corporations will apply to taxation years ended on or after the day of publication of this information bulletin.

3. HARMONIZATION CONCERNING THE REFUND OF INSTALMENT OVER-PAYMENTS

In the June 12, 2003 Budget Speech,[13] the ministère des Finances announced that Québec's tax legislation and regulations would be harmonized with the federal tax legislation and regulations, with the necessary adaptations, in particular regarding the draft technical amendments released on December 20, 2002,[14] including those concerning the refund of instalment over-payments by a taxpayer. However, it was stipulated that the changes would be adopted only after the approval of any federal law or the adoption of any federal regulation arising from these draft amendments, taking into account changes that might be made prior to the approval of the law or the adoption of the regulation, and generally would be applicable on the same dates as for the purposes of the federal income tax.

For various reasons, the draft technical amendments released on December 20, 2002 still have not been adopted by the federal Parliament. However, it is advisable to amend Québec's tax legislation, without waiting for the adoption of federal draft technical amendments, to enable the Minister of Revenue to refund instalment over-payments made by a taxpayer.

Consequently, Québec's tax legislation will be amended to enable the Minister of Revenue to refund instalment over-payments made by a taxpayer on account of income tax and, if the taxpayer is a corporation, on account of the taxes payable under the Taxation Act, for a taxation year, if all the following conditions are satisfied:

— the taxpayer has paid one or more instalment payments, on account of income tax and, if the taxpayer is a corporation, on account of the taxes payable for the year under the Taxation Act;

— it is reasonable to conclude that the total of the instalment payments the taxpayer has paid exceeds the total of the income tax and, if the taxpayer is a corporation, of the taxes payable for the year under the Taxation Act (hereunder "excess instalments");

— the Minister is satisfied that the payment of the instalment payments has caused or will cause undue hardship to the taxpayer; and

— the Minister agrees to pay the refund.

More specifically, the amount of the refund of the excess instalments will be determined by the Minister, who may refund the excess instalments in whole or in part.

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13 MINISTÈRE DES FINANCES DU QUÉBEC, 2003-2004 Budget - *Additional Information on the Budgetary Measures*, June 12, 2003, p. 139, where it is announced that all the announcements relating to federal legislation and regulations made in subsection 5 of section 1 of the *Additional Information on the Budgetary Measures* of March 11, 2003 are maintained. See MINISTÈRE DES FINANCES DU QUÉBEC, *2003-2004 Budget - Additional Information on the Budgetary Measures*, March 11, 2003, Section 1, p. 102.

14 DEPARTMENT OF FINANCE CANADA, *News Release 2002-107*, December 20, 2002.

In addition, regarding the calculation of interest and penalties, Québec's legislation will stipulate that a taxpayer who receives a refund of instalment payments will be deemed not to have paid the refunded excess instalments.

This change relating to the refund of instalment over-payments will apply as of the day the bill giving effect to it is assented to.

4. SUSPENSION OF PAYMENT OF THE REFUNDABLE TAX CREDIT FOR CHILD ASSISTANCE DURING AN INVESTIGATION

Available since 2005, the refundable tax credit for child assistance (RTCCA), is a key component of Québec's assistance to families, providing financial assistance to all families that have at least one child under age 18.

This tax credit, which is paid monthly or quarterly, consists of a child assistance payment (also called "family allowance") and, as the case may be, a supplement for handicapped children.

The child assistance payment includes a universal component paid for all children under age 18 and, to provide low- and middle-income families with additional support, a component that reduces depending on family income. The supplement for handicapped children is granted regardless of family income.

The Régie des rentes du Québec (the "Régie") is responsible for paying the RTCCA to Québec families. For the purposes of such administration, the Régie exercises specific powers it has under the Taxation Act as well as the powers stipulated in the Act respecting the Québec Pension Plan[15] that are necessary to it.

In that regard, the Régie may, among other things, carry out investigations on any matter under its jurisdiction and, in the course of a verification on the eligibility of a recipient, suspend payment of the RTCCA where the recipient fails to provide, within 45 days of the request, the required documents.

However, the Régie does not explicitly have the power to suspend payment of the RTCCA while it carries out an investigation on the eligibility of an individual to receive the tax assistance. It may be difficult to recover amounts paid unduly, especially in cases of fraud.

Accordingly, to enable the Régie to better control the public funds under its administration, the tax legislation will be amended to stipulate that the Régie will have the power, as of the date of publication of this information bulletin, to suspend payment of the RTCCA to an individual during an investigation of his eligibility to receive such tax assistance.

15 R.S.Q., c. R-9.

5. CHANGES TO THE REDEMPTION CRITERIA OF SHARES ISSUED BY FONDACTION

In addition to fostering investment in Québec companies to create or maintain jobs, the objective of Fondaction, the Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi, is to educate workers to the need to save for retirement by encouraging them to purchase shares it issues.

The government supports the efforts of Fondaction to achieve its broad objectives by granting a non-refundable tax credit to individuals who become its shareholders.

Given that, in its essence, any acquisition of shares of Fondaction must be considered a retirement investment, the shareholder cannot ask for the redemption of his shares other than in the cases stipulated in the Act to establish Fondaction, the Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi,[16] hereunder called the "Fondaction Act".

The redemption cases stipulated in this act naturally include events inherent in retirement. The four other redemption criteria cover specific events, such as the disability or death of the person who acquired the shares.

Since they are of the nature of a long-term investment, the shares of Fondaction cannot be part of a purchase by agreement. However, such a purchase is allowed, on an exceptional basis, if it is done in the cases and in the way stipulated by a policy adopted by the board of directors of Fondaction and approved by the Minister of Finance[17].

This policy stipulates a restricted number of cases of purchase by agreement. They are based on humanitarian considerations or depend on the exceptional situation in which a shareholder finds himself.

To reflect changes in practices regarding retirement and the organization of work, various changes will be made to the rules for the redemption of shares issued by Fondaction.

These rules will also be changed with a view to improving fairness for surviving spouses, in particular for those who are annuitants of a spousal registered retirement savings plan.

In addition, clarifications will be made regarding the administrative formalities required to request the redemption or purchase by agreement of shares of Fondaction.

16 R.S.Q., c. F-3.1.2.

17 Generally speaking, Fondaction incurs a penalty if it purchases shares by agreement during a given fiscal year for a total cost greater than 2% of its paid-up capital in relation to the shares that are part of its permanent capitalization. The purpose of this penalty is to recover the tax credit granted by the government for the acquisition of Fondaction shares.

❑ Redemption for early retirement or retirement

The Fondaction Act stipulates that a class "A" share or fraction of a share is redeemable by Fondaction at the request of the person who acquired it[18] from the fund at least 730 days previously if, after having reached age 55, he elected to take early retirement or retirement or if he has reached age 65.

Once an individual has obtained, for any of these reasons, redemption of his shares, he can no longer receive the tax credit for the acquisition of shares of Fondaction, for shares acquired before[19] or after the redemption.

Moreover, a shareholder who availed himself of certain rights at retirement can invoke the purchase by agreement policy, adopted by the board of directors of Fondaction and approved by the Minister of Finance, to have Fondaction purchase the shares he has held for at least two years.

Under this exceptional policy, a shareholder may, provided certain conditions are satisfied, request purchase by agreement of his shares if he is under age 55 and has taken early retirement. The same is true for a shareholder who is at least age 50 and has taken phased retirement.

Over the years, many changes have been made to the purchase by agreement policy of Fondaction to better adapt it to the various options offered to workers who want to withdraw partially or completely from the labour market.

Just recently, this policy was changed to ease the requirements concerning phased retirement to bring them more in line with those stipulated by the Québec Pension Plan.

Though they used to be exceptional, the situations covered by the purchase by agreement policy regarding shareholders availing themselves of certain rights at retirement have become, over time, if not common at least more frequent.

Under the circumstances, amendments will be made to the Fondaction Act to allow more shareholders who have opted to retire to recover their investment upon request rather than by invoking the purchase by agreement policy.

In addition, corollary amendments will be made to the Taxation Act concerning the rules governing the tax credit in respect of the acquisition of shares of Fondaction.

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18 For the purposes of this redemption criterion, a person is deemed to have acquired any share that his or her spouse transferred into a registered retirement savings plan of which he or she is the annuitant.

19 For greater clarity, an individual who had not received, for the years prior to the redemption, all of the tax credit to which he was entitled is no longer authorized to claim a deduction, in calculating his income tax otherwise payable, regarding the unused portion of such tax credit.

- **Amendments to the Fondaction Act**

To incorporate, into the redemption on request by reasons of retirement or early retirement criterion, situations that were covered by the purchase by agreement regarding shareholders availing themselves of certain rights at retirement, the Fondaction Act will be amended to lower the age at which a shareholder who opted for retirement or early retirement can ask for the redemption of his shares acquired at least 730 days previously from age 55 to age 45, and set the circumstances in which a shareholder can be considered to have opted for such retirement or early retirement.

For the purposes of this redemption criterion, a person will be considered to have opted for retirement or early retirement if, at the time of the redemption request, he is in one of the following situations:

1. he is at least age 45, he benefits or will benefit within three months of the request, from early retirement under a registered pension plan and his earned income for the twelve months following the beginning of early retirement is equal to or less than 25% of the maximum pensionable earnings established for the year of the request under the Act respecting the Québec Pension Plan;[20]

2. he is at least age 60 and receives or will receive within three months of the request, a retirement pension from the Québec Pension Plan or an equivalent plan;

3. he is at least age 50 and could receive at this time or within three months of the request, a retirement pension from the Québec Pension Plan were it not, if he has not yet reached age 60, for his age;

4. he is at least age 55 and receives, or will receive within three months of the request, a life annuity under a retirement plan, an annuity under a registered retirement savings plan or a deferred profit sharing plan or a payment under a registered retirement income fund, unless such annuity or such payment is received because of the death of his spouse;

5. he is at least age 45, he is the annuitant of a registered retirement savings plan or a registered retirement income fund, he did not hold a remunerated job or carry on any business in the 730 days preceding the day of the redemption request and the person who is his spouse at such time, other than a person under age 60 who has reached an agreement with their employer to reduce his regular work time until retirement by at least 20%, satisfies the conditions stipulated in one of paragraphs 1 to 4;

6. he satisfies the conditions stipulated by a resolution adopted by the board of directors of Fondaction and approved by the Minister of Finance.

20 See note 15 above.

In addition, the Fondaction Act will be amended to stipulate that the redemption request submitted by a shareholder who is under age 60 and based on the reason that he has reached an agreement with his employer to reduce his regular work time until retirement by at least 20% can only apply, for a given year, to shares or fractions of shares whose redemption is necessary to offset the reduction in pay for such year, up to the balance of shares or fractions of shares in his account at the time of his first redemption request that is based on such reason divided by the lesser of 11 or the number of years covered by the agreement.

These amendments will take effect as of the day following the day of publication of this information bulletin. The Fondaction purchase by agreement policy will be adjusted accordingly.

For greater clarity, where, before the day following the day of publication of this information bulletin, an individual submits a request to Fondaction to purchase one of his shares by invoking one of the cases of the purchase by agreement policy that bears on early retirement or phased retirement and the share has not been purchased by Fondaction before such day, the purchase request relating to such share must be treated by Fondaction as a redemption request.

■ Consequential amendment to the Taxation Act

An individual who acquires, as first acquirer, shares issued by a labour fund[21] can receive a non-refundable tax credit calculated on the basis of the issue price paid to acquire the shares.

This tax credit provides workers with an incentive to save for retirement while participating in the development of Québec's economy. In view of its objectives, as a general rule, it cannot be granted to an individual who has reached age 45 before the end of a given taxation year and has opted for retirement or early retirement.[22]

However, since such an individual can continue to hold a job or carry on a business, this rule has been relaxed.

According to this relaxation measure, an individual – other than an individual who has reached age 65 or obtained the redemption of all or part of the shares he held in a labour fund – is deemed not to have opted for retirement or early retirement at the end of a given taxation year, if the total of his eligible salary for the year[23] and his business income for the year exceeds $3 500.

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21 I.e. Fondaction and the Fonds de solidarité F.T.Q.

22 The same is true if the share acquired by an individual is held by a trust governed by a registered retirement savings plan or a registered retirement income fund under which the annuitant is the spouse of the individual, where, prior to the end of the given taxation year, such spouse has reached age 45 and has opted for retirement or early retirement.

23 The eligible salary of an individual for a year must be determined pursuant to the Act respecting the Québec Pension Plan and, if applicable, taking into account the income he received during a period of disability in the year.

Given the amendments to the Fondaction Act in relation to redemptions for the reason of retirement or early retirement, the Taxation Act will be amended to stipulate that, for the purposes of the relaxation measure under which an individual is considered not to have opted for retirement or early retirement at the end of a given taxation year, an individual will be deemed to have obtained redemption of a Fondaction share before the end of the given year, if such share was purchased by Fondaction before the day that follows the day of publication of this information bulletin pursuant to the application of one of the criteria of its purchase by agreement policy bearing on early retirement or phased retirement.

This amendment will apply as of taxation year 2009.

❑ Redemption by reason of death

The Fondaction Act stipulates that a class "A" share or fraction of a share is redeemable by Fondaction at the request of a person to whom such share or fraction of a share was passed on by succession.

As this criterion is worded, it allows a person who is the spouse of a shareholder of Fondaction to obtain, following the death of the shareholder, redemption of the shares passed on to such person by succession.

However, it does not allow a person to obtain, because of the death of his or her spouse, redemption of the shares the latter transferred into a registered retirement savings plan of which he or she is the annuitant. To obtain redemption of such shares, such person must satisfy the redemption criterion relating to events inherent in retirement, or the criterion relating to disability.

Accordingly, in the interests of fairness and uniform treatment, the Fondaction Act will be amended to stipulate that a class "A" share or fraction of a share may be redeemed at the request of a person who is the annuitant of a registered retirement savings plan in which the share was transferred by an individual who was his or her spouse at the time of the transfer, if such individual is deceased.

This amendment will take effect as of the day following the day of publication of this information bulletin.

❑ Administrative formalities relating to redemption or purchase requests

Currently, the Fondaction Act contains no provision stating the procedure a shareholder must follow to submit a request for redemption or purchase by agreement of his shares.

In the interests of clarity and to facilitate processing of requests for redemption or purchase by mutual agreement that may be submitted to Fondaction, an amendment will be made to the Fondaction Act to stipulate that any request for redemption or purchase by agreement must be submitted on the appropriate form provided by Fondaction and accompanied by the information and documents required by resolution of the board of directors.

This amendment will take effect as of the day following the day of publication of this information bulletin.

6. INCREASE IN EXEMPTIONS GRANTED FOR SETTING PREMIUMS UNDER QUÉBEC'S PRESCRIPTION DRUG INSURANCE PLAN

The basic prescription drug insurance plan introduced by the Québec government ensures all Quebecers fair access to the medication required by their state of health. Coverage under this plan is provided by the Régie de l'assurance maladie du Québec (RAMQ), or by insurers transacting group insurance or administrators of private-sector employee benefit plans.

As a general rule, persons not insured by the private sector throughout a year must, when filing their income tax return for such year, pay a premium to fund Québec's prescription drug insurance plan. To make allowance for households' ability to pay, the premium payable for a year is determined on the basis of family income. However, to improve the fairness of the system by ensuring that no person pays a premium until his income reaches a certain threshold, deductions are allowed in the calculation of family income. Since the introduction of Québec's prescription drug insurance plan, these deductions, which vary with household composition, have been adjusted annually in particular to protect households' purchasing power.

Accordingly, to maintain the principles underlying the determination of the amount of the premium payable to Québec's prescription drug insurance plan, the amount of each of the deductions currently allowed to set the threshold from which premiums become payable will be adjusted for 2009.

The following table shows the amount of each of the deductions allowed for 2009 according to household composition.

Québec's prescription drug insurance plan (2009)
Deductions varying with household composition
(Dollars)

Household composition	Amount of the deduction
1 adult, no children	14 040
1 adult, one child	22 750
1 adult, 2 or more children	25 790
2 adults, no children	22 750
2 adults, one child	25 790
2 adults, 2 or more children	28 595